

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENNETH BRINTON,

Defendant.

4:22-CR-3013

ORDER

The defendant filed a motion to suppress in this matter moving for (1) suppression of evidence obtained from the search of his residence and storage unit, allegedly in violation of the Fourth Amendment; and (2) suppression of statements given to law enforcement, allegedly in violation of his Fifth and Sixth Amendment rights. [Filing 34](#). The Magistrate Judge issued a findings and recommendation that the Fourth Amendment claims be denied. [Filing 44](#). Then, after an evidentiary hearing, the Magistrate Judge issued a second findings and recommendation that the Fifth and Sixth Amendment claims also be denied. [Filing 51](#).

The defendant has objected to the findings and recommendation regarding the Fourth Amendment claims. [Filing 45](#). The Court has conducted a de novo review of the record pursuant to [28 U.S.C. § 636\(b\)\(1\)](#). On its de novo review, the Court agrees with the Magistrate Judge's findings and recommendation, and will adopt them.

The defendant has not objected to the findings and recommendation regarding the Fifth and Sixth Amendment claims. Section 636(b)(1) provides for de novo review of a Magistrate Judge's findings or recommendations only when a party objects to them. [Peretz v. United States, 501 U.S. 923 \(1991\)](#).

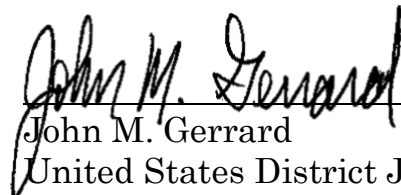
Failure to object to a finding of fact in a Magistrate Judge's recommendation may be construed as a waiver of the right to object from the district court's order adopting the recommendation of the finding of fact. [NECrimR 59.2\(e\)](#). The claimant was expressly advised that "failing to file an objection to this recommendation as provided in the local rules of this court may be held to be a waiver of any right to appeal the court's adoption of the recommendation." [Filing 51 at 15](#). And the failure to file an objection eliminates not only the need for de novo review, but any review by the Court. *Thomas v. Arn*, 474 U.S. 140 (1985); *Leonard v. Dorsey & Whitney LLP*, 553 F.3d 609 (8th Cir. 2009); see also *United States v. Meyer*, 439 F.3d 855, 858-59 (8th Cir. 2006). Accordingly, the Court will adopt the Magistrate Judge's findings and recommendation.

IT IS ORDERED:

1. The defendant's objection ([filing 45](#)) is overruled.
2. The Magistrate Judge's findings and recommendations ([filing 44](#), [filing 51](#)) are adopted.
3. The defendant's motion to suppress ([filing 34](#)) is denied.

Dated this 22nd day of December, 2022.

BY THE COURT:



John M. Gerrard
United States District Judge